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A Utah woman wants condom 'stealthing' to be a crime. Robert Gehrke explains why.

Emma Schwartz said she was a victim of 'stealthing' — or when a condom is secretly removed during sex. Now she wants Utah to be the 2nd state to outlaw the act.



(Francisco Kjolseth | The Salt Lake Tribune) Robert Gehrke.

By Robert Gehrke | Feb. 1, 2023, 4:33 p.m.

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Emma Schwartz was at a party with her boyfriend where the two teenagers drank alcohol and slipped off to a private room.

Schwartz had told him she would only have sex if he wore a condom, but she says he pulled it off this time without telling her. It's an act called "stealthing." When she discovered what he had done, Schwartz says she felt violated and traumatized.



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"My mental health took a drastic decline. I was having trouble sleeping. Every time I attempted to walk into school, I would throw up from anxiety because I was just so scared I was going to see the boy," Schwartz told me recently.

In text messages, he apologized and blamed his intoxication, but didn't — from Schwartz's perspective — offer a real explanation for what he had done.

"I ended up taking myself out of school for the last half of my senior year and completing it online. I almost didn't go to college," she said. "It's had a lot of repercussions."



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It's more common than you might imagine. A 2019 study found that 12% of women said they had been victims of stealthing, exposing partners to risks of pregnancy, sexually transmitted diseases and emotional trauma.

Now Schwartz, who is attending New York University, and her parents are working with Sen. Mike McKell, R-Spanish Fork, to make stealthing a crime on par with sexual battery.

"I think what she went through was clearly assault and battery," said McKell, who met with Schwartz and her family early in the session, "but I don't think our criminal code is clear on the issue. And since it's a weird trend, it's something that's happening at a greater level than people realize. It's something the Legislature should clarify in the criminal code."



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(Photo courtesy Emma Schwartz) • Emma Schwartz and her parents Jeffrey and Carrie, seen here with Sen. Mike McKell, are lobbying the Utah Legislature to criminalize an act known as "stealthing," where a male removes a condom during sex without his partner's permission.

California passed a similar law in 2021. Last year, courts in Canada ruled it violated consent and could be considered sexual assault. A bill introduced in the U.S. House of Representatives to provide funding for states to make stealthing a crime and enforce the law died in committee. Schwartz's mother, Carrie Schwartz, said their goal is to push for federal legislation again and, in the meantime, work state by state to enact criminal statutes.

"Ultimately, it bears almost the exact similarities as rape," Carrie Schwartz said. "She's had a lot of pretty severe consequences as a result of this that she will be dealing with for years ... and she feels strongly that there should be some consequences for the perpetrators."

McKell said his bill will be modeled after the California bill. Legislative attorneys are finalizing the language, he said.

The family has filed a civil lawsuit against the young man and his parents, who, the Schwartzes allege, provided the alcohol. In court filings, attorneys for him and his family deny any wrongdoing.

It's not about the money, her father, Jeffrey Schwartz, said, but the only way they have to seek accountability.

And for Emma, it's about trying to prevent it from happening to other women and ensuring they have some avenues under the law if it does.

"[It's] progress from pain," she says.



(Photo courtesy Emma Schwartz) • Emma Schwartz and her parents Jeffrey and Carrie, seen here with Sen. Mike McKell, are lobbying the Utah Legislature to criminalize an act known as "stealthling," where a male removes a condom during sex without his partner's permission.

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